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Traumatic Neuroses in Court.

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Of all the diseases which within the last ten years have prominently engaged the attention of the medical world, there is none that deserves more interest and is of greater practical importance, than that group of nervous disorders, which have been styled the traumatic neuroses. It is especially since the meeting of the tenth International Congress held at Berlin in 1890, that this question has occupied a prominent place in medical thought and discussion the world over. The somewhat acrimonious debate, on that occasion not altogether free from personal antagonism, had as an immediate consequence, the effect of stimulating renewed study and producing a flood of literature on the subject.

Oppenheim's book on the traumatic neuroses had not only renewed and intensified the interest, but also excited wide-spread contradiction.

Oppenheim, in contradistinction to Charcot who classed all neuroses following accidents as hysteria, tried to demonstrate in his book that there is a type of disease quite peculiar in its manifestations particularly on the part of the nervous system, a type which is only met with after injuries, and railway injuries in particular.

The opponents of Oppenheim have contended that he described a disease which he called *the* traumatic neurosis, meaning thereby a well defined nervous disorder, characterized chiefly by concentric narrowing of the visual field, anesthesia or hypesthesia, irritability of the heart and certain mental anomalies.

This disease as such, they claim does not exist. There are traumatic neuroses, however, resulting from injury coupled with shock, for instance, hysteria, neurasthenia, chorea, epilepsy, shaking palsy, etc. These neuroses constitute a family; they are more or less closely related to each other.

Most frequently among these traumatic neuroses are found hysteria and neurasthenia or a combination of the two, hystero-neurasthenia.

Whilst Oppenheim claims that predisposition and heredity are extremely rare and that the victims to his traumatic neurosis were ordinarily robust men before the accident, Charcot and with him the French school, assert that the injury is only the provoking agent of a disease which exists in a state of latency. Without the accident the person might have continued in good health for the rest of his life; the injury and the

mental shock, however, changed a dormant into an active trouble.

The French claim that Oppenheim's cases are simply hystero-neurasthenic, i. e. graver cases of post-traumatic neuroses, and that they do not represent specimens of a clinical entity.

The drift of opinion in neurological circles is in this direction and Oppenheim himself seems to have made some concessions to the French school of late.

In France traumatic hysteria seems to be the prevailing form of the neuroses under discussion. With us, traumatic neurasthenia is certainly the predominant form, the difference being due to racial peculiarities.

The importance of those lesions, considerable though it is from a clinical point of view, has been materially increased of late years on account of the ever increasing frequency of damage suits resulting from them.

Owing to the great discrepancy still existing on the nature and import of these affections and the diametrically opposite views given by the physicians of the litigating parties, these suits generally form very knotty problems for the jury to solve.

The difficulty in the way of a righteous verdict lies in the very nature of the affections under discussion. If there is a visible injury, a fracture for instance in any part of the body, or lesion of the integuments or the deeper tissues, it is to the layman a comparatively easy matter to comprehend, how such an injury may be followed by transient or lasting nervous symptoms, which may constitute, as they do in the traumatic neuroses,

the chief and prominent sequelæ of the injury. This difficulty is increased by the too frequent occurrence of exaggeration or downright shamming on the part of the injured in cases where damage suits are brought.

The trouble will, I am afraid, go on increasing owing to the spread of knowledge on the subject among the masses of the people. To this dissemination of knowledge is to be added the prevailing tendency to fleece the soulless corporations; on the other hand, the real victim to a traumatic neurosis will have a difficult task of convincing a skeptical jury, which through doctors and lawyers have been made acquainted with the great prevalence of simulation of nervous disorders.

Unfortunately the symptoms of the disease are in the vast majority of cases of a subjective nature. Hence very frequently the veracity of the claimant supported by the testimony of a physician viz. that such and such symptoms may result from the alleged injury, form the exclusive evidence in the case.

One of the commonest complaints of the sufferer from a traumatic neurosis is pain. How can this be demonstrated? If we possessed an instrument, by which we could gauge the pain, an algesiometer, ananogously to the aesthesiometer matters might be considerably simplified. As it is, pain is a relative and indefinite quantity. Mucius Scaevola puts his hand into the burning coal without flinching, Charles XII smokes a pipe whilst the surgeon removes by deep incisions a bullet from his leg, but the impressionable weakling will convoke a medical faculty for an ordinary belly-ache.

Almost equally difficult of determination is the degree of anesthesia or hypesthesia which are so frequently complained of by such patients. It is a very easy matter to detect contradictory statements in regard to the intensity of anesthesia; and a person must not be set down as an impostor when the result of the examinations of one sitting does not tally with that of a preceding one. The degree of attention and the varying condition of the patient himself are responsible for these discrepancies.

On the whole, it may be stated as a general proposition that a claimant for damages is not to be looked upon as an impostor by the examining physician, because contradiction in regard to his present condition and that of the past are discovered. For a defective memory and an instability of the perceptive faculties are among the commonest symptoms of the traumatic neuroses. Again, if the case be one of traumatic hysteria, the phenomena are often almost incredible, especially to him who has no neurologic or psychiatric training. A knowledge of this latter branch of medicine, is above all requisite for the correct interpretation of the symptoms and behavior of the traumatized neurotics. For it is not the peripheral nerve, nor the spinal cord which is principally affected in these neuroses, but the mind. It is a psycho neurosis which the examining physician has to deal with. This mental anomaly, the hypochondriomelancholic tinge which almost invariably is met with in the traumatic-neurotics, has been used as an argument against the hysterical nature of the trouble, since the hysteric have generally an air of hopefulness or in-

difference about them and are notorious for their abrupt changes from one mood to another. But it is as strange a fact as it is incontestable, that the male hysteric is morose, despondent, embittered, quite in contrast with the female victim of the disease.

Taken for granted now, that a certain proportion of the traumato neurotics are afflicted with hysteria or in worst cases hystero neurasthenia, it becomss apparent at once, why it is that the symptoms presented by such a case seem so incredible and out of keeping with what is ordinarily observed in injury and disease. Expert examinations as to eye, ear, heart, lungs, etc. and the tests usually employed to unmask imposition have, as a rule, a very bad effect on such patients and not unfrequently, what has been a simple neurosis at first, has by injudicious, overzealous activity on the part of the examining physicians, been converted into a psychoneurosis of a grave character. It will not do, to tell such a patient that he is only hysterical and that, being a man he has no business to be so. Hysteria may be a grave disease, and male hysteria, especially that due to injury is apt to be particularly obstinate and intractable. The same holds true of traumatic neurasthenia which is generally less accessible to treatment than the non-traumatic variety.

In all these conditions now, there is a general tendency to exaggeration of the symptoms. It is physiological to the disease as it were, and ought not to be put down as an unfailing sign of shamming with the intent of increasing the award of damages.

We ought always to bear in mind, as stated before that the disease is psychogenous in character and that its proper diagnosis belongs therefore to the domain of the psychiater and neurologist. And even he is apt to be misled, in cases of this class unless he has paid strict attention to the literature on this subject for the last 4 or 5 years, during which a considerable stride towards better and exact knowledge has been made.

It is not my object in this paper to describe traumatic neuroses in all their details, their fundamental and secondary symptoms. My intent and purport is, to point out the difficulties surrounding this matter, specially in cases of litigation.

The exaggeration of originally existing, and the acquisition of new symptoms through examinations made by a number of physicians, each of them asking about, and thereby suggesting some new symptom generally or exceptionally met with in traumatic neuroses, has led to quite a new nosological species of morbid phenomena, the litigation symptoms, so called. To reduce them to their proper level and to eliminate them from the legitimate clinical picture, is one of the most difficult tasks of the examining physician.

As a rule, patients who have their claims in court, get worse mentally and physically. The worry and anxiety which even the healthy and vigorous individual has to undergo in a lawsuit, which is to decide on his financial future, is a particularly hard strain on the nerves of the traumato neurotic.

The excitement incident to litigation renders his case

progressively worse, and many a claimant would have fared much better in health and happiness, had he settled at a reasonable figure instead of undergoing the harassing wear and tear of a lawsuit. Not the most liberal award will repay such a man for the often deep and lasting damage his brain has sustained from prolonged litigation.

On the other hand, it is often astonishing what amount of elasticity and recuperative power is exhibited by the successful claimant. Nowhere has the gold-cure celebrated greater triumphs than on the field of traumatic neuroses, if administered by a benevolent jury. There dwells a familiar figure in the memory of those who frequently have to deal with these cases of the neurotic cripple, who has to be assisted to ascend the witness stand and gives his testimony in a feeble and broken voice, an utter, pitiable wreck, physically and mentally, who a few weeks later is capable of carrying the weight of several thousand dollars in silver, the award of damages, without any apparent difficulty.

Again, cases are on record where successful litigants openly bragged after having secured their booty, how they duped the doctors, judge and jury.

Such occurrences are not frequent, but their reality is incontestable. The unjustifiable benefit which one undeserving individual derives through such practice necessarily redounds to the detriment of the deserving victim.

In order to exclude any possible errors of diagnosis, the aim of all original investigation of the subject has been, to establish the objective signs of the neuroses

and, if possible, such symptoms, as cannot be simulated and which are characteristic enough to exclude other diseases. Unfortunately, there is no objective sign which cannot be successfully simulated by one who through association with real traumato-neurotics has become sufficiently familiar with the leading symptoms. The only exception seems to be the concentric narrowing of the field of vision, so much insisted upon by Oppenheim (according to Charcot this is one of the most valuable, though not constant, stigmata of hysteria, whether ordinary or traumatic), the acceleration of the pulse, especially on pressing the painful spots, as a rule situated at one or more of the spinous processes, (Mannkopf's sign) and the difference of the pupil, the one on the affected side (in cases of hemianesthesia or hemiplegia *e. g.*) being larger than the other.

But it may be broadly stated that all these symptoms are not characteristic of the traumatic varieties of hysteria, neurasthenia, and hystero-neurasthenia, that they are as frequent in the non traumatic forms, hereditary or acquired, and that as a matter of fact they are observed in quite a variety of other neuroses and chronic affections in general.

It would devolve then on the defense to prove that the person sueing for damages was neurotically tainted before the accident, which, of course, is generally a matter of difficulty and impossibility, since every claimant will insist on his previously perfect health; and there are scores of witnesses to prove it. My experience is that in quite a number of such patients a

pre-existing neurasthenia could be elicited. Of course, this name does not figure in the patient's previous record; as a rule the terms biliousness and dyspepsia are named which generally are nothing more nor less than symptoms of genuine neurasthenia.

On the other hand, it devolves on the examining physician to establish as to their proper value, the symptoms observed in the claimant and to find out, how much of them is due to the accident and what may have existed before. A very difficult task indeed.

To illustrate the obstacles besetting the subject, especially when complicated by litigation, I shall briefly mention a few of the cases with which I have had personally to deal.

I believe that one of the most curious instances in forensic medicine, and thus far a unique one, where the problem of the causation of diseases was involved, is that of a woman who, several years ago claimed that she had been permanently injured while ascending in an elevator of one of the large drygoods houses of this city. She contended that the machinery had come to a sudden stop, throwing her forward and causing her to land on her head. Since that moment she was paralyzed in her lower extremities. The damages were laid at $20,000. The defense, however, convinced the jury that the claimant had had hysteria all her lifetime, that the alleged injury received by the sudden stoppage of the elevator, which could not be proven, was in reality one of the attacks common to hysteria usually called hystero-epilepsy, and that a disease remained which has

the uncommon and formidable name of hysterical astasia abasia, but which is in spite of this name a reality. The jury found against the claimant.

In another instance a railroad was sued also for $20,000 damages by a traveling salesman who had jumped from a train to avoid the effects of a collision. Since that time, or any rate several months later (as is often the case in traumatic neuroses), he had evinced a number of neurasthenic symptoms which he claimed were caused by the accident. The train had moved at the time this occurred, with a velocity of six to eight miles an hour; in jumping plaintiff had landed on a heap of gravel and had fallen on his knees, bursting his pants at that point. There had been no injury except an insignificant abrasion, nor had anybody else been injured, not even the engineer who remained on the engine at the time of the collision (the engine had been damaged only to the amount of one hundred dollars). The defense succeeded in convincing the jury that the injuries were too insignificant to be looked upon as the cause of the neurasthenia (despondency, rachialgia, inability to work, etc.), from which plaintiff was undoubtedly suffering, there being data enough in the previous history of the patient pointing to a very strong neurasthenic diathesis.

In a third case which may be briefly mentioned, a man, known to be an alcoholic of a pronounced type, had been struck by the beam of the barrier at a railway crossing through the negligence, it was alleged, of the watchman in attendance. The pole which, owing to

the counterweight at one end did not descend with great velocity grazed the man's head, who stumbled, but did not become unconscious. There was not the "traumatic narcosis" in the language of Bergman, so ominous an occurrence, as a rule in accidents of this nature. The man, after the accident, if it was such, visited several bar-rooms and had later on leeches applied to the site where the beam had struck the head. Two days later a surgeon examined him, after he had returned home (the accident befell him while on a visit to this city) found nothing to indicate an injury either to the scalp or bone, not even the evidence of a contusion. The only lesion visible was the leech bites. This man soon after the injury developed symptoms of mental alienation. The symptoms were such as are generally observed in alcoholic insanity. His friends, however, thought that the disorder of his mind was referable to the injury sustained from the pole, and after he had partially recovered, he sued the company, the proprietor of the barrier where the accident and happened. It was learned that the medical experts that were to appear for plaintiff hinted at a depressed fracture as the cause of the mental trouble. The claim of damages was $20,000. The case never came to trial. It was compromised at $1,000. It was plainly one where the trauma did not play the least of a pathogenic role.

These three cases taken at random from the cases of my own experience show the importance of hysteria, neurasthenia and alcoholism in the development of traumatic neuroses and psycho-neuroses. They demon-

strate the importance of the diathesis or predisposition and reduce to its proper value the injury, as simply the provoking agent of a dormant trouble. The task of the examining physician will be to ascertain in the first place the gravity of the existing nervous disorder and next the probability or improbability of a connection as to cause and effect between it and an alleged accident.

If anywhere a reform is needed in the administration of justice, it is in the suits for damages. Nowhere in the whole machinery of the law are there more farcical performances found than in the courts where damage suits are tried for personal injury; and nowhere is there such an opportunity for the profession to exhibit their chronic disagreement, as on the question of traumatic neuroses. As a rule there are two opposing sets of doctors One is trying to prove to the jury that the plaintiff is a damaged man and incapacitated for life, the other set will try to prove that there is not much the matter with him, that he is exaggerating or putting on and feigning disease which does not exist. This war of experts who as a rule are not familiar with even a rudimentary knowledge of the neuroses is generally a source of great amusement to the lawyers and the jury, but does not redound to the good name of the profession; much less is it calculated to help the jury distinguish between right and wrong. Ready wit and repartee is too often counted for knowledge and the testimony of an ill-informed tyro may outweigh that of the experienced physician. Not, until trained and trustworthy experts are appointed by the state to pass on doubtful

cases and instruct the jury in accordance with their finding, will there be an improvement in the defective and erroneous method of arriving at verdicts in cases of traumatic neuroses claiming damages. Under existing conditions the true medical expert is generally hampered by counsel of the opposing party in his effort to elucidate the case. The prevailing custom that only the experts for plaintiff are allowed to examine his person is certainly not calculated to help the jury in their effort at reaching a just verdict. The fact is that there is too much hedging and dodging done by medical experts, to help the side for which they happen to be engaged. They thus run the risk, or rather are necessarily exposed to, the danger of turning advocates, where they ought to be impartial witnesses.

Quite reprehensible is the practice which has been actually resorted to by some experts, of going into a law suit for damages on the plan of sharing in the profits resulting from the verdict. This is lowering the already low standard of our profession. What for a lawyer to do under such conditions may be legitimate and proper, is utterly impardonable in a physician.

Some facetious observer has divided prevaricators in court into three classes, liars, blank liars and experts. Let us try to help to get the medical experts excluded from this category.